

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
TUESDAY, SEPTEMBER 28, 2004 AT 10:00 A.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

NOTE: The public portion of the meeting will begin at 10:00 a.m. The City Council will meet in Closed Session this morning from 9:00 a.m. – 10:00 a.m. Copies of the Closed Session agenda are available in the Office of the City Clerk.

OTHER LEGISLATIVE MEETINGS

The **SAN DIEGO REDEVELOPMENT AGENCY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Redevelopment Agency Secretary at (619) 533-5432.

ITEM-300: ROLL CALL.

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today’s docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under “Non-Agenda Public Comment.”

COUNCIL, CITY ATTORNEY, CITY MANAGER COMMENT

REQUEST FOR CONTINUANCE

The Council will now consider requests to continue specific items.

=== LEGISLATIVE SCHEDULE ===

Noticed Hearings, Discussion

ITEM-330: Virginia Way Street (Alley) Vacation. (La Jolla Community Plan Area. District-1.)

CITY MANAGER'S RECOMMENDATION: Adopt the resolution.

ITEM-331: First and Robinson. (Uptown Community Plan Area. District-3.)

Matter of approving, conditionally approving, modifying or denying a Site Development Permit, Map Waiver, and Easement Abandonment to waive the requirements for a Tentative Map and Final Map, abandon an existing sewer easement, modify the location of a historic structure, and develop a 25-unit, 4-story, residential condominium project with a partially subterranean parking structure with deviations to floor area ratio and the front yard, interior side yard, and rear yard setbacks. The project is located at 3815, 3817-3819, and 3821 First Avenue, north of Robinson Avenue within the MR-800B Zone of the Mid-City Communities Planned District and the Uptown Community Plan Area.

CITY MANAGER'S RECOMMENDATION: Adopt the resolutions in subitems A, B, and C; and adopt the resolution in subitem D to grant the permit.

=== **LEGISLATIVE SCHEDULE (Continued)** ===

Noticed Hearings, Discussion (Continued)

ITEM-332: Aero Drive 3 – Retail Building. MND No. 6729/MMRP/PDP No. 56270/SDP No. 56271/Street Vacation Easement No. 37090/PTS No. 6729. (Kearny Mesa Community Plan Area. District-6.)

Matter of approving, conditionally approving, or denying a Planned Development Permit, Site Development Permit, and Right-of-Way Vacation (Process 5) to construct a 7,200 square foot retail building and parking lot on an undeveloped land area. The 1.123 acre site is located east of Murphy Canyon Road, south of Aero Drive, west of Interstate 15, in the CC-1-3 Zone, Airport Environs Overlay Zone, within the Kearny Mesa Community Plan area.

CITY MANAGER’S RECOMMENDATION: Adopt the resolutions in subitems A and C; and adopt the resolution in subitem B to grant the permit.

Adoption Agenda, Discussion, Other Legislative Items

ITEM-333: Two actions related to Ground Lease Approval with Baltimore Drive, LLC, to Develop, Operate, and Maintain a Retail Commercial Building on 1.12 Acres of City-Owned Property. (Kearny Mesa Community Area. District-6.)

CITY MANAGER’S RECOMMENDATION: Adopt the resolutions.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

ITEM-330: Virginia Way Street (Alley) Vacation.

(La Jolla Community Plan Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-259)

Vacating a portion of the northerly terminus of the unimproved alley lying between High and Cabrillo Avenues north of Pearl Street, in Block 3, Map No. 915.

CITY MANAGER SUPPORTING INFORMATION:

City Council action is requested to vacate a portion of the northern terminus of the alley in Block 3, Map No. 915, lying between High and Cabrillo Avenues north of Pearl Street in the La Jolla Community Plan area within the Council District 1. The portion of the alley to be vacated is unimproved and is the northerly 25-foot length of the 20-foot wide alley. The applicant requests the vacation to utilize the vacated right-of-way for use of the existing development. The area to be vacated is adjacent to residentially zoned and developed property. A "General Utility and Access Easement" will be reserved over the area being vacated.

FINDINGS: Staff review has indicated the right-of-way may be summarily vacated. The 4 "findings" can be made.

1. That there is no prospective use for the right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.
2. That the public will benefit from the action through improved utilization of the land made possible by the alley vacation – The land will revert to private ownership and relieve the City of any liability.
3. That the vacation is not inconsistent with the General Plan, Community Plan or Local Coastal Program – The portion of alley being vacated is not part of the community transportation element and the La Jolla Community Planning Association recommends approval of the request.
4. That the facility for which the right-of-way was originally acquired will not be detrimentally affected by the street vacation – The right-of-way is not required for any future alley serving purposes and serves no public purpose.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-330: (Continued)

FISCAL IMPACT:

None. All costs have been paid for by the applicant.

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061(b)(3).

Loveland/Halbert/RMK

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: First and Robinson.

Matter of approving, conditionally approving, modifying or denying a Site Development Permit, Map Waiver, and Easement Abandonment to waive the requirements for a Tentative Map and Final Map, abandon an existing sewer easement, modify the location of a historic structure, and develop a 25-unit, 4-story, residential condominium project with a partially subterranean parking structure with deviations to floor area ratio and the front yard, interior side yard, and rear yard setbacks. The project is located at 3815, 3817-3819, and 3821 First Avenue, north of Robinson Avenue within the MR-800B Zone of the Mid-City Communities Planned District and the Uptown Community Plan Area.

(Uptown Community Plan Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolutions in subitems A, B, and C; and adopt the resolution in subitem D to grant the permit:

Subitem-A: (R-2005-211)

Adoption of a Resolution certifying that the information contained in Mitigated Negative Declaration LDR No. 20155, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a site development permit, a map waiver and an easement abandonment for the First and Robinson project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved;

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

Subitem-A: (Continued)

That pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, and incorporated herein by reference;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2005-212)

Adoption of a Resolution stating that the sewer easement located within the Uptown Community Planning area in connection with Site Development Permit No. 49312 and Map Waiver No. 49311, as more particularly described in the legal description marked as Exhibit "A," on file in the office of the City Clerk, which is by this reference incorporated herein and made a part hereof, is ordered vacated;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

Subitem-C: (R-2005-282)

Adoption of a Resolution adopting findings with respect to Map Waiver No. 49311;

That the recommendation of the Planning Commission is sustained, and Map Waiver is granted to DMH 1st and Robinson, LLC, Applicant/Subdivider and Project Design Consultants, Engineer, subject to the attached conditions which are made a part of this resolution;

That this map waiver is conditioned on the recordation of a lot consolidation map. In the event this condition is not completed within two years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

Subitem-D: (R-2005-)

Adoption of a Resolution granting or denying Site Development Permit No. 49312, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on August 19, 2004, voted 6-0 to approve; no opposition.

Ayes: Steele, Otsuji, Schultz, Chase, Ontai, Garcia
Recusing: Lettieri

The Uptown Planners Community Planning Group has recommended approval of this project.

CITY MANAGER SUPPORTING INFORMATION:

The 3.88-acre project site is located at 3815, 3817-3819, and 3821 First Avenue between Robinson Avenue and University Avenue within the Uptown Community Plan Area. The project site is located within the MR-800B Zone of the Mid-City Communities Planned District and the Transit Area Overlay Zone. The site is surrounded by a mix of single-family and multi-family residential development with commercial establishments to the north along University Avenue. The applicant is requesting a Site Development Permit, Map Waiver, and an easement abandonment in order to relocate a locally designated historic structure on site, and develop the site with 25 residential condominiums located within two 2-story buildings and two 4-story buildings. The buildings are proposed above a partially subterranean parking garage that provides 43 parking spaces.

The project is subject to a Process 5 City Council Hearing due to the request for the easement abandonment. A private sewer lateral easement has been granted to the City, which was recorded in October 1922. The location of the easement cannot be determined from record information. The applicant is requesting the abandonment of this easement in order to develop the site.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

The project is in conformance with the permitted density, recommendations of the Uptown Community Plan, and all of the applicable development regulations of the MR-800 B zone, except for the deviations to floor area ratio and interior side, front, and rear yard setbacks. These deviations may be permitted through the Site Development Permit and are being requested by the applicant in order to retain the historic house, maintain adequate separation between the historic resource and the new development, and to accommodate a 2.5-foot alley dedication, which shifted the project further towards First Avenue. Staff analysis of the project has concluded that the requested deviations are minor in scope, and that the project has been designed to integrate well into the surrounding development.

Additionally, the proposed setbacks provide adequate separation from the adjacent properties and help break up bulk and scale. Staff has also determined that the proposed Map Waiver to waive the requirements of a tentative map and final map complies with the State Map Act and the Subdivision regulations of the Land Development Code.

The project was considered by the Planning Commission during a public hearing on August 19, 2004, which recommended that the City Council approve the project by a vote of 6-0 with 1 abstention.

FISCAL IMPACT:

None with this action. Project costs are paid by the applicant.

Loveland/Halbert/FZT

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: Aero Drive 3 – Retail Building.

Matter of approving, conditionally approving, or denying a Planned Development Permit, Site Development Permit, and Right-of-Way Vacation (Process 5) to construct a 7,200 square foot retail building and parking lot on an undeveloped land area. The 1.123 acre site is located east of Murphy Canyon Road, south of Aero Drive, west of Interstate 15, in the CC-1-3 Zone, Airport Environs Overlay Zone, within the Kearny Mesa Community Plan area.

(See City Manager Report CMR-04-203. MND No. 6729/MMRP/PDP No. 56270/SDP No. 56271/Street Vacation Easement No. 37090/PTS No. 6729. Kearny Mesa Community Plan Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolutions in subitems A and C; and adopt the resolution in subitem B to grant the permit:

Subitem-A: (R-2005-137)

Adoption of a Resolution certifying that the information contained in Environmental Mitigated Negative Declaration LDR No. 6729, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a planned development permit, site development permit, and right-of-way vacation for the Aero Drive Three project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, is approved;

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

Subitem-A: (Continued)

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2005-)

Adoption of a Resolution granting or denying Planned Development Permit No. 56270 and Site Development Permit No. 56271, with appropriate findings to support Council action.

Subitem-C: (R-2005-138)

Adoption of a Resolution stating that the street vacation easement located within Kearny Mesa Community Plan area in connection with Planned Development Permit No. 56270 and Site Development Permit No. 56271, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20029-B, marked as Exhibit "B," and on file in the office of the City Clerk, which are by this reference incorporated herein and made a part hereof, is ordered vacated reserving there from a street easement for site development together with ingress and egress for that purpose;

That said street vacation is conditioned upon approval and issuance of Planned Development Permit No. 52670/Site Development Permit No. 56277. In the event this condition is not completed within two years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect;

That the City Engineer shall advise the City Clerk of the completion of the aforementioned condition and the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder;

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

Subitem-C: (Continued)

That the City clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

OTHER RECOMMENDATIONS:

Planning Commission on June 17, 2004, voted 5 – 0 to approve; no opposition.

Ayes: Chase, Steele, Garcia, Ontai, Otsuji

Recusing: Schultz

Not present: Lettieri

The Kearny Mesa Planning Group has recommended approval of the proposed project.

CITY MANAGER SUPPORTING INFORMATION:

Background

The 1.1-acre project site is located east of Murphy Canyon Road, south of Aero Drive, and west of Interstate 15, in the CC-1-3 Zone, Airport Environs Overlay Zone (Montgomery Field), and Stonecrest Specific Plan area of the Kearny Mesa Community Plan. The CC-1-3 Zone is a commercial-community zone intended to accommodate development with an auto orientation. The project is also designated for regional-commercial use within the Stonecrest Specific Plan.

Project Description

The project proposes the construction of a 7,200 square-foot, 31.5-foot high, single-story retail building and parking lot on an undeveloped 1.1-acre site. The property is owned by the City of San Diego and would be leased to the project applicant through a lease agreement with the Real Estate Assets Department. The physical design of the proposed retail building includes a cement plaster exterior with architectural cornices, and a mission-style clay tile roof.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

FISCAL IMPACT:

None.

Loveland/Halbert/MJW/DM

LEGAL DESCRIPTION:

The site is located east of Murphy Canyon Road, south of Aero Drive, and west of I-15, within the CC-1-3 zone, airport Environs Overlay Zone, Kearny Mesa Community Plan area and is more particularly described as Lot 4 of Map 13072 & Lot 16 of Map 13072.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

ITEM-333: Two actions related to Ground Lease Approval with Baltimore Drive, LLC, to Develop, Operate, and Maintain a Retail Commercial Building on 1.12 Acres of City-Owned Property.

(Kearny Mesa Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-50)

Authorizing the City Manager to execute a forty-year lease agreement with Baltimore Drive, LLC, to develop, operate, and maintain a retail commercial building on 1.12 acres of City-owned property at an annual rental of \$28,000, following a one-year construction period rental of \$6,000, under substantially the terms and conditions set forth in that certain lease agreement.

Subitem-B: (R-2005-53)

Certifying that Mitigated Negative Declaration LDR No. 6729, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a 40-year lease agreement with Baltimore Drive, LLC;

Approving the Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program, pursuant to California Public Resources Code Section 21081.6;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-333: (Continued)

CITY MANAGER SUPPORTING INFORMATION:

In February 2002, the LU&H Committee approved exclusive negotiations with Baltimore Drive, LLC, to ground lease and develop a portion of City-owned Old Murphy Canyon Road right-of-way. Located at the southwest corner of Aero Drive and Interstate 15, this 1.12-acre commercially zoned vacant land will be improved by the lessee with a 7,200-square-foot retail building. Baltimore Drive, LLC, owns the commercial development adjacent to the City's property and has spent the past two years in securing the entitlements to develop this proposed project, estimated to cost \$1.9 million.

Proposed for approval is a 40-year ground lease with Baltimore Drive, LLC. Initial rent during the construction period is \$500 per month, not to exceed one year. Upon completion of the improvements, the monthly rent will start at \$2,334 and be subject to annual increases based on the Consumer Price Index or 5 percent of the previous rent, whichever is greater. All costs of entitlement processing, construction, and future maintenance are being borne by the lessee. The City's property is valued at \$280,000 in its "as-is" condition based on an independent fee appraisal done in March 2004, which has been reviewed and approved by City staff.

Lease of this portion of the Old Murphy Canyon Road necessitates approval by the City Council of a street vacation, which is being presented to Council as a companion item. Murphy Canyon Road was relocated about 10 years ago, leaving this old right-of-way that is no longer needed for street use.

FISCAL IMPACT:

\$6,000 the first year and \$28,000 the second year will be deposited into General Fund 100.

Herring/Griffith/PTC

NON-DOCKET ITEMSADJOURNMENT IN HONOR OF APPROPRIATE PARTIESADJOURNMENT